



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

APR 18 2017

BY REGULAR MAIL & EMAIL

Ryder T. Ulon, Esq.
Schenk, Price, Smith & King, LLP
220 Park Avenue
Post Office Box 991
Florham Park, NJ 07932

Re: Belleville Industrial Center: Ability-To-Pay
Lower 8.3 Miles of the Lower Passaic River, Diamond Alkali Superfund Site

Dear Mr. Ulon:

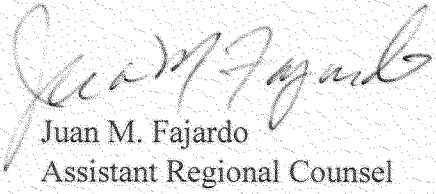
On March 30, 2017, the U.S. Environmental Protection Agency (the "EPA") extended an "early" cash out settlement offer to the Belleville Industrial Center (BIC) concerning the Company's potential liability for the Lower 8.3 Miles of the Lower Passaic River, which is Operable Unit 2 ("OU2") of the Diamond Alkali Superfund Site. In response, you indicate that your client, BIC, may not have the financial resources to pay the \$280,600.00 settlement amount requested by the EPA.

Accordingly, enclosed please find a list of questions and requests for documents to which BIC must provide a complete response in order for the Agency to perform an ability-to-pay analysis to determine if BIC lacks the financial resources to pay the settlement amount requested by EPA of the early cash out parties, and if so, the amount that BIC could pay to settle with EPA regarding its potential liability for OU2.

Pursuant to EPA regulations, the information will be considered to have been submitted pursuant to Section 104(e) of CERCLA, since it was requested for a purpose contemplated by CERCLA Section 104(e)(2)(C), 42 U.S.C. § 9604(e)(2)(C). When BIC submits the requested information, if it wishes to assert a claim of confidentiality it should follow the instructions for asserting a claim of confidentiality enclosed herein. Under 40 C.F.R. § 2.310(h)(2), EPA may disclose CERCLA CBI to a contractor if EPA determines in writing that such disclosure is necessary to the contractor's performance of the work required by the contract.

Also enclosed is a "Certification of Answers" that must be fully executed for EPA to consider BIC's ability-to-pay request.

Sincerely,



Juan M. Fajardo
Assistant Regional Counsel

Enclosures

Procedures for Asserting that Information is Confidential.

You may assert a confidentiality claim covering part or all of the information requested, pursuant to Section 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §9604(e)(7)(E) and (F), Section 3007(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:

- a. the portions of the information which are alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claims will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.



Belleville Industrial Center
Ability To Pay

Please provide a complete response to the questions below and submitted the requested financial documentation for analysis of the Belleville Industrial Center's ("BIC") ability to pay for costs incurred or to be incurred by the U.S. Environmental Protection Agency ("EPA") with respect to the Lower 8.3 Miles of the Lower Passaic River, Diamond Alkali Superfund Site:

1. Please provide the mailing address for BIC; the name and address of the president for BIC; and the Company's agent for service of process.
2. Is BIC an affiliate or subsidiary of another company? If so, identify each such company and state, in detail, the relationship of BIC to such company.
3. Provide a copy of BIC's federal income tax returns for the Company's last five (5) fiscal years.
4. Provide copies of any and all income tax audits or audit adjustments related to BIC for the last five (5) fiscal years.
5. Provide copies of all financial statements including balance sheets, income statements, statements of changes in financial position, and statements of changes in stockholders' equity, audited (or unaudited, if audited financial statements were not prepared), for BIC for the last five (5) fiscal years.
6. Provide copies of the Corporate Minutes Book for BIC.
7. Provide copies of all Annual Reports prepared by BIC for the last five (5) years.
8. Provide copies of all BIC's internal financial reports that are the representations of management for the last five (5) years.
9. List and provide documentation of all of BIC's assets, including but not limited to real estate holdings, cash, bank accounts, mutual funds, stocks, bonds, trusts, annuities, and the like.
10. List all agreements or contracts, including but not limited to insurance policies, which may indemnify BIC, and its present or past owners, operators, partners, and/or shareholders, with respect to any costs that BIC may have to pay due to EPA with respect to this ability-to-pay analysis. Provide a copy of each such agreement, contract, and insurance policy.
11. For each insurance policy identified in your response to question 11. above, provide the name and address of the insurance company providing the insurance, the policy number, the years the policy was in effect, and the type of coverage provided.

12. For each insurance policy identified in your response to question 11. above, provide a list of claims made against any of the policy, including policy number, name of insurance carrier, name of person within insurance company to contact regarding claim, the claim number, a brief description of the claim and whether monies were paid out by the carrier in response to a claim made, including a compromise of settlement of the claim.
13. Provide copies of all correspondence, internal and external memorandum regarding the claims listed in the previous question.
14. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession, custody, or control, then identify the persons from whom such information or documents may be obtained.
15. Provide the names, addresses, and telephone numbers of the Company's financial record-keepers, past and present, and the Company's accountant(s) who prepares or reviews the BIC's annual report, and/or tax returns.
16. Please provide the name and address of each person that provided answers to the Questions contained herein.



CERTIFICATION OF ANSWERS

Belleville Industrial Center
Ability To Pay

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to the Belleville Industrial Center's request for an Ability To Pay analysis and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this

day of _____, 2017.

Notary Public

